

REMARKS

Please reconsider the application in view of the above amendments and the following remarks.

Disposition of Claims

Claims 1-8 are pending in the referenced application. Claims 1, 5, 7, and 8 are independent. The remaining claims depend, directly or indirectly, from independent claims 1 and 5.

Drawings

The Applicants respectfully request that the Examiner indicate whether the originally filed drawings for the referenced application are acceptable.

Claim Amendments

Claims 1 and 5 have been amended by way of this reply to clarify the invention. Support for these amendments may be found, for example, in paragraphs [0020-0028] of the referenced application as published (*i.e.*, in U.S. Patent Application Publication No. 2005/0223105). Claims 2-4 and 6 have been amended to address antecedent basis issues arising from the amendment of independent claims 1 and 5. In addition, claims 1-8 have been amended to remove the embedded reference notation. No new matter has been added by way of these amendments.

Rejections under 35 U.S.C. § 103

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application Publication No. 2003/0096619 (“Winberg”) and U.S. Patent Application Publication No. 2004/0010579 (“Freese”). To the extent that this rejection applies to the amended claims, the rejection is respectfully traversed.

Independent claim 1, as amended, is directed to a communication device. Further, the communication device is configured to communicate with a server. The communication device and the server communicate through two independent communication networks. Thus, data communicated over a first communication network does not require the aid of a second communication network in order for the data to reach the intended recipient (*i.e.*, communication device or server). Said another way, the server may send data to the communication device using either a first communication network or a second communication network. The same is true for data sent from the communication device to the server.

For example, as discussed in one embodiment of the invention, the server may send an instruction to the communication device over a GSM network and the communication device may send a response to the server over a GPRS network. In this example, both the communication device and the server are able to interact with both of the communication networks. (*see e.g.*, Referenced Application as published, Figure 1).

Turning to the rejection, “[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.” (MPEP § 2143).

The cited references, whether considered separately or in combination, fail to teach or suggest all the limitations of amended independent claim 1. Specifically, amendment independent claim 1 requires, in part, (i) a communication device and a server; (ii) two independent communication networks; (iii) the ability for the communication device and the server to communicate over the two independent communication networks; (iv) the server to send an instruction to the communication device over the first communication network; and (v) the communication device, in response to executing the instruction, to effect an operation over the second communication network.

In contrast, Winberg is directed to communication between a client and host over a single chain of communication networks, where each of the communication networks is dependent on one of the other communication networks. Specifically, as disclosed in Winberg, the client and the host may only communicate with each other using the following chain of dependent communication networks: client to UMTS Terrestrial Radio Access Network (UTRAN); UTRAN to Core Network; Core Network to Internet; and Internet to host. (*see* Winberg, Figure 2). From the above disclosure it is clear that the client and host are not communicating over two independent communication networks; rather, the client and the host are communicating over a single chain of dependent communication networks. Said another way, all data communicated between the client and host must follow the same network-level data path (*i.e.*, use the same set of communication networks). In contrast, as recited in the claims, the communication device is required to communicate with the

server over at least two distinct network-level data paths (*i.e.*, using different communication networks (or sets of communication networks)). Moreover, contrary to the Examiner's assertion, individual channels within the same communication network (*i.e.*, UTRAN) are not equivalent two distinct communication networks. In view of the above, Winberg fails to teach or suggest a communication device and a server communicating over the two independent communication networks.

Further, Winberg fails to teach or suggest receiving an instruction over a first communication network and executing the instruction to generate a request for the server to perform an operation on the second communication network. As discussed above, Winberg fails to teach two independent communication networks. From this it logically follows that Winberg does not teach the aforementioned limitations directed to receiving an instruction over a first communication network and executing the instruction to generate a request for the server to perform an operation on the second communication network.

Moreover, even assuming *arguendo* that Winberg discloses two independent communication networks, Winberg only discloses a client sending a request to the server in response to the client detecting an increase in network traffic (*see* Winberg, [0032]). However, there is no teaching or suggestion of sending an instruction by the server as required by the claims. In view of the above, Winberg fails to teach receiving an instruction over a first communication network and executing the instruction to generate a request for the server to perform an operation on the second communication network.

Further, Freese does not teach or suggest that which Winberg lacks. In particular, Freese is directed to sending an instruction to a client over a communication network and then receiving a

response over *the same* communication network (*see* Freese, Abstract). Further, the response only includes monitoring information (*see* Freese, Abstract). However, Freese does not teach or suggest a communication device and a server communicating over the two independent communication networks. Further, Freese fails to teach or suggest receiving an instruction over a first communication network and executing the instruction to generate a request for the server to perform an operation on the second communication network.

In view of the above, amended independent claim 1 is patentable over Winberg and Freese. Amended independent claim 5 includes similar patentable limitations as amended independent claim 1 and, thus, is also patentable over Winberg and Freese for at least the same reasons as amended independent claim 1. Independent claims 7 and 8 include similar patentable limitations as amended independent claim 1 and, thus, are also patentable over Winberg and Freese for at least the same reasons as amended independent claim 1. Finally, dependent claims are patentable over Winberg and Freese for at least the same reasons as the aforementioned independent claims (amended and non-amended). Accordingly, withdrawal of this rejection is respectfully requested.

Claim 4 stands rejected under 35 U.S.C. § 103 as being unpatentable over Winberg and Freese in view of U.S. Patent Application Publication No. 2002/0183045 (“Emmerson”). To the extent that this rejection applies to the amended claims, the rejection is respectfully traversed.

Claim 4 depends from amended independent claim 1. As discussed above, Winberg and Freese fail to teach or suggest all the limitations of amended independent claim 1. Further, Emmerson does not teach or suggest that which Winberg and Freese lack. Specifically, Emmerson is directed to downloading data onto a client using a *single* communication network. (*see* Emmerson, Figure 2). In view of the above, amended independent claim 1 is patentable over

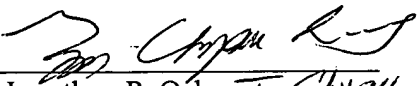
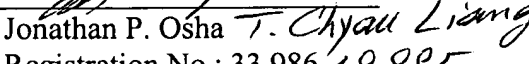
Winberg, Freese, and Emmerson. Dependent claim 4 is patentable over Winberg, Freese, and Emmerson for at least the same reasons as amended independent claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/041001).

Dated: October 10, 2006

Respectfully submitted,

By 
for Jonathan P. Osha 
Registration No.: 33,986 48,885
OSHA LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicants